



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.A(MD)No.1295 of 2017

and

C.M.P(MD)No.8987 of 2017

1. The State,
Rep. by the Secretary to the Government,
(Revenue Department),
Secretariat,
Chennai.
2. The Commissioner of Revenue,
Administrator cum Additional Chief Secretary,
Ezhilagam,
Chennai.
3. The District Collector,
Virudhunagar,
Virudhunagar District. ... Appellants/Respondents

Vs.

E.Vijayakumar ... Respondent/Writ Petitioner

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order, dated 02.11.2016 made in W.P(MD)No.19774 of 2016, on the file of this Court.

Prayer in WP(MD). 19774/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari to call for the record on the files of the 3rd respondent pertaining to its charge memo bearing No.Na.Ka.A5/34477/2014 dated 27.02.2015 and the consequential communication of the 3rd respondent bearing No. Na.Ka.A5/34477/2014 dated 19.09.2016 and to quash the same and consequential direct the respondents to grant all monetary benefits.

For Appellants : Mr.A.K.Baskara Pandian,
Special Government Pleader.

For Respondent : Mr.S.C.Herold Singh

**JUDGMENT**

(Judgment of the Court was delivered by
M. DURAISWAMY, J.)

Challenging the order, dated 02.11.2016 passed in W.P(MD) No.19774 of 2016, the State has filed the above Writ Appeal.

2.The respondent/writ petitioner has filed the above Writ Petition to issue a Writ of Certiorari, to call for the records on the file of the third respondent pertaining to its charge memo, dated 27.02.2015 and the consequential communication of the third respondent, dated 19.09.2016 and to quash the same and consequently, direct the respondents to grant all monetary benefits.

3.It is the case of the respondent/writ petitioner that he was working as Zonal Deputy Tahsildar, Sivakasi during the period from 22.04.2012 to 11.09.2013 and during June, 2013, one R.S.Mahendran, applied for residence certificate to the Village Administrative Officer. The Village Administrative Officer and the Revenue Inspector, after making spot inspection, recommended the same and based on the recommendation, residence certificate was issued on 12.06.2013. One Rajasekaran raised objections for the issuance of the certificate and the matter was referred to the Tahsildar, who also filed the genuineness report saying that the certificate issued by the respondent/writ petitioner is genuine. On 25.12.2013, standard residence certificate was issued and in respect of this incident, which took place on 12.06.2013, charges were framed against the respondent/writ petitioner on 28.02.2015. Based on the charge memo, disciplinary proceedings were initiated against the respondent/writ petitioner. Admittedly, the respondent/writ petitioner attained the age of superannuation on 28.02.2015 and he was permitted to retire without prejudice to the disciplinary proceedings. The initiation of the disciplinary proceedings was challenged in a Writ Petition in W.P(MD)No.6087 of 2015 and this Court, by order, dated 21.04.2015, directed the disciplinary authority to commence the disciplinary proceedings and to complete the same within a period of one year. According to the respondent/writ petitioner, the order passed by this Court in the said writ petition was not complied with by the disciplinary authority and therefore, challenging the charge memo, dated 27.02.2015, the respondent/writ petitioner has filed the Writ Petition.

4.The learned Special Government Pleader appearing for the appellants/respondents in the writ petition submitted that the departmental proceedings were completed and that the charges framed against the respondent/writ petitioner were not proved. Further, the learned Special Government Pleader submitted that



based on the enquiry report, it is for the disciplinary authority to pass further orders.

5. The learned Single Judge, while disposing of the Writ Petition, found that the question of quashing the charges does not arise for the reasons that the charges framed against the respondent/writ petitioner were not proved. However, the learned Single Judge directed the disciplinary authority to pass final order positively, within a period of two weeks from the date of the order without any further delay and consequently, directed the respondents to settle all the monetary benefits to the respondent/writ petitioner without delay.

6. It is not in dispute that the charges framed against the respondent/writ petitioner were not proved before the enquiry officer and the matter was referred to the disciplinary authority to pass further orders.

7. It is settled position that the disciplinary authority has got powers to pass any order without relying upon the report of the enquiry officer. That being the case, merely because the enquiry officer found that the charges framed against the respondent/writ petitioner were not proved, that will not stand in the way of the disciplinary authority to proceed further in the matter in accordance with law. Therefore, the order passed by the learned Single Judge directing the disciplinary authority to pass final order positively and to settle all the monetary benefits to the respondent/writ petitioner is against the settled position of law.

8. In these circumstances, we are of the considered view that the order passed by the learned Single Judge in the Writ Petition is liable to be set aside. Accordingly, the same is set aside and the Writ Appeal is allowed. We direct the disciplinary authority to pass final orders in accordance with law within a period of three months from the date of receipt of a copy of this order. The respondent/writ petitioner shall give his reply to the notice, dated 02.01.2017 within a period of two weeks from the date of receipt of a copy of this order and it is open to him to raise all the defences available to him in the reply to be given by him. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(crl side)

/True Copy/

Sub Assistant Registrar

To

<https://hcservicescourts.gov.in/> to the Government,
(Revenue Department),
Secretariat, Chennai.



2. The Commissioner of Revenue,
Administrator cum Additional Chief Secretary,
Ezhilagam,
Chennai.

WEB COPY

3. The District Collector,
Virudhunagar,
Virudhunagar District.

+1cc to Mr.S.C.Herold Singh, Advocate Sr.No.61009

PS

VB/SV/MMS/SAR2/07/05/2018/4P/5C

W.A(MD) No.1295 of 2017
12.04.2018